

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-11 and 13-15 are currently pending, Claims 1-11 and 13-15 having been amended, and Claim 12 having been canceled without prejudice or disclaimer. The changes and additions to the claims do not add new matter and are supported by the originally filed specification, for example, on page 5, lines 24-33; and original Claims 1, and 13-15.

In the outstanding Office Action, Claims 12-15 were objected to; Claims 12-15 were rejected under 35 U.S.C. §101; and Claims 1-15 were rejected under 35 U.S.C. §102(e) as being anticipated by Easley et al. (U.S. Patent No. 5,548,784, hereinafter “Easley”).

With respect to the objection to Claims 12-15 as being of improper dependent form, Applicants respectfully submit that the present amendments to Claims 13-15 overcome this ground of objection.

With respect to the rejection of Claims 12-15 under 35 U.S.C. §101, Claim 13 has been amended to recite a statutory “computer readable storage medium” and Claim 14 has been amended to recite a statutory “optical data storage medium.” Accordingly, Applicants respectfully submit that the present amendments to Claims 13-15 overcome this ground of rejection.

With respect to the rejection of Claim 1 under 35 U.S.C. §102(e), Applicants respectfully traverse this ground of rejection and submit that the present amendment to Claim 1 overcomes this ground of rejection. Amended Claim 1 recites, *inter alia*,

determining whether an optical data medium inserted
into a drive of the computer is the target optical data medium or
a non-target optical data medium, and

when the inserted optical data medium is the target
optical data medium,

modifying read requests to the protected data areas so that either no data is read or the read data is modified to be useless, and/or

modifying write commands in respect to the data within the protected data areas to a recordable data medium or other storage so that the written data is modified to be useless.

Applicants submit that Easley fails to disclose or suggest at least these features of amended Claim 1.

Easley describes a method and apparatus for detecting diskette changes. (See Easley Abstract). Easley describes a disk drive providing a door-open or “changeline” status signal which provides an indication of the status of the drive door, whether it is open or closed. (See Easley, col. 1, ll. 35-38).

The Office Action appears to assert that a drive door or door open status of Easley is an indication and ability for a data carrier to be inserted and corresponds to “determining whether a target optical data carrier or a non-target optical data carrier is inserted into a drive of the computer,” as recited in original Claim 1. (See Office Action, page 5). Easley describes a process for determining whether a new diskette has been inserted, specifically, whether the drive door has been closed after an opening of the drive door. (See Easley, col. 11, ll. 5-7). Easley, in figure 1, shows the process of determining whether a new disk has been inserted based on whether the “door open” status is true or false and when a new disk has been inserted reading new directory and allocation information. (See Easley, col. 3, ll. 20-35, col. 4, 9-26, Fig. 1A). However, Easley merely describes ***determining whether a drive door is open or closed*** and ***whether a new disk has been inserted*** based on whether the drive door has been opened and closed. Easley does ***not*** describe ***determining whether a disk inserted into the drive is a target disk or a non-target disk***.

Furthermore, the Office Action, on pages 4-5, appears to assert that the

limitation “if” does not render the invention one sole affirmed carried out function/utility but a stipulation that only if

the data carrier is inserted that the following functions is to follow. ... Thus, the prior art does not have to necessary read on the claimed “if a target optical data carrier is inserted into the drive of the computer” since the claimed also suggest the data carrier is not inserted.

However, Applicants submit that Claim 1 has been amended to recite “when the inserted optical data medium is the target optical data medium, modifying read requests to the protected data areas so that either no data is read or the read data is modified to be useless, and/or modifying write commands in respect to the data within the protected data areas to a recordable data medium or other storage so that the written data is modified to be useless.” Applicants further submit that the claim language “when” and the features that follow are not mere stipulations but rather a conditional feature of the claim. In other words, the use of the term “when” is not the same as using the term “or.” Applicants emphasize that for anticipation, MPEP §2131 requires for anticipation that each and every feature of the claimed invention must be shown and requires that “the identical invention must be shown in as complete detail as is contained in the ... claim.” See *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (See MPEP §2131). Therefore, if the applied art does not have the same functionality as Claim 1 under the same specified condition of Claim 1 then it is not the same invention.

Thus, Applicants submit that to anticipate amended Claim 1, the Office Action must show for anticipation that “*when the inserted optical data medium is the target optical data medium*” the applied art describes “modifying read requests to the protected data areas so that either no data is read or the read data is modified to be useless, and/or modifying write commands in respect to the data within the protected data areas to a recordable data medium or other storage so that the written data is modified to be useless.” Applicants submit that the Office Action has not made this showing at all.

Therefore, Easley does not disclose or suggest “*determining whether an optical data medium inserted into a drive of the computer is the target optical data medium or a non-target optical data medium, and when the inserted optical data medium is the target optical data medium, modifying read requests* to the protected data areas so that either no data is read or the read data is modified to be useless, and/or *modifying write commands* in respect to the data within the protected data areas to a recordable data medium or other storage so that the written data is modified to be useless,” as defined in amended Claim 1.

Accordingly, Applicants respectfully submit that amended Claim 1 (and all associated dependent claims) patentably distinguishes over Easley.

Additionally, amended independent Claims 13-14 recite features similar to that of amended Claim 1 discussed above. Thus, Applicants respectfully submit that amended independent Claims 13-14 patentably distinguish over Easley.

Consequently, in light of the above discussion and in view of the present amendment, the outstanding grounds for rejection are believed to have been overcome. The present application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)

Sameer Gokhale
Registration No. 62,618